UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1998/16
19 August 1998

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Fiftieth session
Agenda item 7

HUMAN RIGHTS OF INDIGENOUS PEOPLES

Report of the Working Group on Indigenous Populations on its sixteenth session
(Geneva, 27-31 July 1998)

Chairperson-Rapporteur: Ms. Erica-Irene A. Daes

CONTENTS

	Paragraphs	Page
Introduction	1 - 2	3
I. ORGANIZATION OF THE WORK OF THE SESSION	3 - 23	3
A. Attendance	3 - 11	3
B. Documentation	12	7
C. Opening of the session	13 - 20	8
D. Adoption of the agenda	21 - 22	10
E. Adoption of the report	23	10

GE.98-13915 (E)

CONTENTS (continued)

		Paragraphs	Page
II.	REVIEW OF DEVELOPMENTS PERTAINING TO THE PROMOTION AND PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF INDIGENOUS PEOPLE: GENERAL STATEMENTS	24 - 48	10
III.	INDIGENOUS PEOPLES - EDUCATION AND LANGUAGE	49 - 75	16
IV.	INDIGENOUS PEOPLES AND HEALTH: FOLLOW-UP AND RECENT DEVELOPMENTS	76 - 89	22
V.	STANDARD-SETTING ACTIVITIES: EVOLUTION OF STANDARDS CONCERNING THE RIGHTS OF INDIGENOUS PEOPLE	90 - 100	25
VI.	STUDY ON TREATIES, AGREEMENTS AND OTHER CONSTRUCTIVE ARRANGEMENTS BETWEEN STATES AND INDIGENOUS POPULATIONS	101 - 113	27
VII.	STUDY ON INDIGENOUS PEOPLES AND THEIR RELATIONSHIP TO LAND	114 - 119	30
VIII.	CONSIDERATION OF THE ESTABLISHMENT OF A PERMANENT FORUM FOR INDIGENOUS PEOPLE	120 - 124	31
IX.	INTERNATIONAL DECADE OF THE WORLD'S INDIGENOUS PEOPLE	125 - 138	32
X.	OTHER MATTERS	139 - 142	33
XI.	CONCLUSIONS AND RECOMMENDATIONS	143 - 165	34
	A. Review of developments	143 - 150	34
	B. Standard-setting activities	151 - 152	36
	C. Study on treaties	153 - 154	36
	D. Study on land rights	155 - 156	36
	E. Permanent forum	157	36
	F. International Decade of the World's Indigenous People	158 - 162	37
	G. Other matters	163 - 165	37

Introduction

Mandate

1. The creation of the Working Group on Indigenous Populations was proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in its resolution 2 (XXXIV) of 8 September 1981, endorsed by the Commission on Human Rights in its resolution 1982/19 of 10 March 1982, and authorized by the Economic and Social Council in its resolution 1982/34 of 7 May 1982. In that resolution the Council authorized the Sub-Commission to establish annually a working group to meet in order to:

(a) Review developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous populations, including information requested by the Secretary-General annually from Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status, particularly those of indigenous peoples, to analyse such materials, and to submit its conclusions and recommendations to the Sub-Commission, bearing in mind in particular the conclusions and recommendations contained in the report of the Special-Rapporteur of the Sub-Commission, Mr. José R. Martínez Cobo, entitled "Study of the problem of discrimination against indigenous populations" (E/CN.4/Sub.2/1986/7 and Add.1-4);

(b) Give special attention to the evolution of standards concerning the rights of indigenous populations, taking into account both the similarities and the differences in the situations and aspirations of indigenous populations throughout the world.

2. In addition to the review of developments and the evolution of standards, which are separate items on the Working Group's agenda, the Working Group has over the years considered a number of other issues relating to indigenous peoples. In its resolution 1997/14, the Sub-Commission requested the Secretary-General "to prepare an annotated agenda for the sixteenth session of the Working Group containing, inter alia, the following items: standard-setting activities, including a sub-item on possible future standard-setting activities, including guidelines or codes of conduct for private sector energy and mining concerns; review of developments, including sub-items on review of developments: general statements, review of developments: indigenous peoples - education and language and review of recent developments: health and indigenous peoples; study on indigenous peoples and their relationship to land; a permanent forum for indigenous peoples; the International Decade of the World's Indigenous People, including a sub-item on preparations for the mid-point review of the Decade; and the study on treaties, agreements and other constructive arrangements between States and indigenous peoples."

I. ORGANIZATION OF THE WORK OF THE SESSION

A. Attendance

3. In its decision 1997/111 of 27 August 1997, the Sub-Commission decided on the following composition of the Working Group at its sixteenth session:

Mr. Miguel Alfonso Martínez, Mr. Volodymyr Boutkevitch, Ms. Erica-Irene Daes, Mr. El-Hadji Guissé and Mr. Ribot Hatano. The session was attended by Mr. Alfonso Martínez, Mr. Boutkevitch, Ms. Daes and Mr. Guissé. Mr. Hatano was unable to attend the sixteenth session owing to health reasons.

4. Ms. Erica-Irene A. Daes was elected Chairperson-Rapporteur of the sixteenth session by acclamation.

5. The following States Members of the United Nations were represented by observers: Argentina, Australia, Bangladesh, Bolivia, Brazil, Canada, Chile, China, Costa Rica, Cuba, Denmark, Ecuador, El Salvador, Estonia, Finland, France, Greece, Guatemala, Honduras, India, Indonesia, Italy, Japan, Kenya, Malaysia, Mauritius, Mexico, Myanmar, Nepal, New Zealand, Norway, Pakistan, Peru, Philippines, Russian Federation, South Africa, Spain, Sri Lanka, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

6. The following non-member States were represented by observers: Holy See, Switzerland.

7. The following United Nations bodies and specialized agencies were also represented by observers: International Labour Office, Office of the United Nations High Commissioner for Refugees, Secretariat to the Convention on Biological Diversity of the United Nations Environment Programme, United Nations Conference on Trade and Development, United Nations Educational, Scientific and Cultural Organization, World Bank, World Health Organization, World Intellectual Property Organization.

8. The following intergovernmental organizations were represented by observers: European Commission, European Parliament.

9. The following non-governmental organizations in consultative status with the Economic and Social Council were represented by observers:

(a) Organizations of indigenous peoples

Aboriginal and Torres Strait Islander Commission, Grand Council of the Crees, Indian Law Resource Centre, Indian Movement "Tupaj Amaru", International Indian Treaty Council, International Organization of Indigenous Resource Development, National Aboriginal and Islander Legal Service Secretariat, Saami Council.

(b) Other organizations

Afro-Asian Peoples' Solidarity Organization, Asian Buddhists Conference for Peace, Baha'i International Community, Centre Europe - Tiers Monde, Commission of the Churches on International Affairs of the World Council of Churches, Education International, Franciscans International, Friends World Committee for Consultation (Quakers), International Federation of Human Rights Leagues, International League for the Rights and Liberation of Peoples, International Movement against All Forms of Discrimination and Racism,

International Service for Human Rights, North South XXI, Pathways to Peace, Pax Christi International, Society for Threatened Peoples, World University Service, World Wide Fund for Nature International.

10. The following indigenous peoples' organizations and nations, as well as other organizations and groups, were represented at the sixteenth session and provided information to the Working Group with its consent:

Aboriginal Nations - Australia, Abya Yala Fund, ADBR, Adivasi Koordination - Germany, Adivasi Peoples Network - Int., All India Coordinating Forum of the Adivasi Indigenous Peoples, Ainu Association of Japan, Ainu Association of Sapporo, Ainu International Network, Ainu National Congress, AITMA, Agencia Internacional de Prensa India, Akaitcho Territory Government, Akhil Bhavliya Adivasi Vikash Parishad, Alexis Nakoda Nation, Altepetl Nahau AC, American Indian Law Alliance, ANACAP - Tamaynut, Arbeitskreis Tourismus und Entwicklung, Arctic Indigenous Women's Network, ARMINCO, Asia Indigenous Peoples Pact, Asian Indigenous Peoples Peace Campaign, Asociación Indígena de la República Argentina, Asociación Nabguana, Asociación Jatun Pacha Producciones, Assembly of First Nations, Association for the Promotion of Batwa, Association of Indigenous Peoples of the North of Yakutia, Association of Norfolk Islanders, Association of the Tchoukoka People, Association Tarahumara, Australia Lake Jasper Project, Bank Information Centre, Big Mountain Aktionsgruppe, Blood Tribe/Treaty Seven, CABEPEC, Canadian Friends Service Committee, Canadian Indigenous Women's Resource Institute, Cape Cultural Heritage Development Council, CEA, CENAQ, Centre for Applied Studies in International Negotiations, Centro de Culturas Indias - Chirapaq, Cheyenne Nation - Oklahoma, Chin Forum, Chin National Front, Chottanagpur Adivasi Sewa Samiti, Chittagong Hill Tracts Students Council, Centro de Información y Documentación para Pueblos Indígenas, CISA, CNI-ANIPA, CNI-UCIWM Unión de Comunidades Wixatitari de Mexico, CODEABABIK, Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos "CAPAJ", Comité Intertribal-Memoria e Ciencia Indígena, Comité Social des Chagossiens, Comunidad Aymara Ancomarca, Congreso General de la Cultura Kuna, Consejo de Todas las Tierras, Consultative Committee of Finnugric Peoples, Conseil Indien d'Amérique du Sud, Coordinadora Nacional de Mujeres Indígenas, Cordillera Peoples Alliance, Centre for Organisation-Research and Education, COSILIGI, Council of Chakassikij People, Council of the Elders of Shor Peoples, Country Council of Pokot, CSIA, Cultural Anthropology, Defensoria Maya - Copmagua, Druk Indigenous Peoples Rights Organisation, ECOR, Ecumenical Coalition on Third World Tourism, Enda Consommation Populaire, Escuela Maya de Derechos Humanos Ixim-Che, Espacio Afro-Americana, Ethnic Minority Rights Organisation of Africa, EXPO 2000, FAJI, Fédération des Organisations Amérindiennes de Guyane, Fédération Nationale des Associations Culturelles Amazighes, Federación Provincial de Communidades Aymaras "Aymar Markas", Fédération Internationale des Professeurs de Langues Vivantes, FIAEP, FIAPP, FICI, FILBDLP, Fonds Mondial pour la Sauvegarde des Cultures Autochtones, For Mother Earth - Belgium, Forest Peoples Programme, Foundation for Aboriginal and Islander Research Action, FPCN, Frente de Liberación Guaymi, Frepic Awanak, Fundación Internacional Lelio Basso, GERME, Greater Chittagong Hill Tracts Students Council, Griqua National Conference of South Africa, Haudenosaunee, Hmong International Human Rights Watch, Homeland Mission 1950 Moluccas, Human Rights Committee of South Africa, Human Rights for Indigenous Peoples, Humanity Protection Forum, IAICFA - Indigenous Coordination Forum, IBIS,

International Council for Metals and the Environment, ICRA, IDC, Il Cercho, IMPECT, Incomindios, Indian Confederation of Indigenous and Tribal Peoples, Indigenous Council in the Netherlands, Indigenous Knowledge Programme, Indigenous Law Centre, Indigenous Peoples Biodiversity Network, INFOE, Information Centre for Indigenous Peoples of the Russian Federation, Innu Council of Nitassinan, Instituto de América, Instituto Qechwa Jujuymanta, International Alliance of Indigenous and Tribal Peoples of the Tropical Forests, International Circassian Association, International Scholars for Indigenous Peoples, International Support Group for Sustainable Tourism, IPACC, ISIA, Jeunesse Nationale Populaire, Jhakhanis Organisation for Human Rights, Jumma Peoples Link, Kalahui Hawaii, Khoekhoegowab Curriculum Committee, Kimberley Land Council, KKRU, Kirat Rai Language and Literacy Council - Nepal, Kwai Support Group, KWIA, Lakota Nation, Lao Human Rights Council, Maa Development Association, MAB, Maga Peoples Movement for Human Rights, MANDAT International, Maori Education Trust, Mapuche de Tirrua - Chile, Mapuche Interregional Council, Mapuche International Link, Mapuches du Chili, Mejlis of the Crimean Tartar People, Men Muria Foundation, Métis Nation of Alberta-Zone II, MOFA, Mohawk Nation, Mon Unity League, Montagnard Foundation, Inc., Movement for the Survival of the Ogoni People - MOSOP, Mouvement Culturel Berbère, Mouvement Culturel Amazigh, Movimento de la Juventud Kuna, Munupi Arts and Crafts Association, Muskachees Cultural College, NACCHO, Naga National Council, Naga Peoples Movement for Human Rights, Naga Vigil Human Rights Group, Naga Womens Union - Manipur, Native Vision, Newspaper for Indigenous People Rapport Metro, Netherlands Center for Indigenous Peoples, New South Wales Aboriginal Education Consultative Group, New South Wales Aboriginal Education, New South Wales Aboriginal Land Council, Ngaiterangi Iwi Inc., North American Indigenous Peoples Biodiversity Project, National Secretariat of Torres Strait Islander Organisation, Nuba Sudan NSA, ORMI, OSILIGI, Oziguazug, Pachatan Inkari, Pakistan-Tanzeeme Nasleanau Hozara, Paul Nakoda Nation, Peace Campaign Group, Pemuda - RMS - Maluku/Bond Ex-Knil, Philippines Indigenous Peoples Links, Pimicikamak Cree Nation, Placer Dome Inc., Proceso de Comunidades, Programme Intégration et Développement du Peuple Pygmée, Programa Pueblos Indígenas CEALP, Pueblo Aymara, Raipon, RAIS, RCM/Libya, Rehabilitation Hope Fund, Rehoboth, Representative of Rigoberta Menchú, Rio Tinto PLC, Rural Peoples Forum for Social Action, Samson Cree Nation, SASI, Sherpa Association - Switzerland, Shimin Gaikou Center, Shor Peoples Association, Shoria People Council of Elders, Secretariat for National Aboriginal Islander Childcare Committee, SOPAM, South Africa San Institute, Southeast Treaty Four Tribal Council, South-Africa Sasi, Southern Kalahari San, Spanish Foundation for Indigenous People, Spirit of Mother Earth, Support Network for Indigenous Peoples, Supporting Network for Tanzeems Activities, Survie Touaregue-Temoust, Taller Mujeres Indígenas del Perú, Tanzeem Nasle Nau Hazara Mughal Qwetta, Te Kawau Maro, Tea-Amaro Runa, Terralingua, Terra Nuova, Tebtebba Foundation, Teton Sioux Nation Treaty Council, The Chukchi Peoples of Pewek, The Green Dream Foundation, The Plain Aborigines Council Federation, The Traditional Government of the Lakoa - Dakota, TILALT, TITWSDA, Torres Strait Regional Authority, Touch the Earth, Traditions Pour Demain, Tununak Traditional Elders Council, UFER, União das Naçoes Indigenas do Acre e Sul do Amazonas, UNESCO - Catalogne, UNESCO - Etxea, Union Douanière et Economique, Urbanized Indigenous, Wanniyala-Aettu Foundation, Washitaw do Dugdahmoundyah, West Papua Peoples Front, Western Aboriginal Legal Services, WIMSA, WINSPORTS - Inc., Working Circle Indians

Today, Working Group on Tourism and Development, World Sindhi Congress, World Youth Service and Enterprise, WOSM, Xu Ekhwe Vereniging, Yara Association.

11. In addition to the above-mentioned participants, a number of individual scholars, human rights experts, human rights defenders and observers attended the meetings. An estimated 950 persons attended the sixteenth session of the Working Group.

B. Documentation

12. The following documents were prepared for the fifteenth session of the Working Group:

Agenda (E/CN.4/Sub.2/AC.4/1998/Rev.1);

Annotations to the provisional agenda (E/CN.4/Sub.2/AC.4/1998/1/Add.1);

Note by the secretariat on information received from intergovernmental organizations and indigenous peoples on indigenous peoples - education and language (E/CN.4/Sub.2/AC.4/1998/2 and Add.1);

Note by the secretariat on indigenous peoples - education and language (E/CN.4/Sub.2/AC.4/1998/3);

Note by the secretariat on human genome diversity research and indigenous peoples (E/CN.4/Sub.2/AC.4/1998/4 and Add.1);

Note by the secretariat: compilation of general recommendations from human rights treaty bodies referring to indigenous peoples (E/CN.4/Sub.2/AC.4/1998/5);

Report of the Workshop of Indigenous Journalists (E/CN.4/Sub.2/AC.4/1998/6);

Note by the secretariat on preparations for the mid-point review of the International Decade of the World's Indigenous People (E/CN.4/Sub.2/AC.4/1998/7);

Note by the secretariat on information received from indigenous organizations (E/CN.4/Sub.2/AC.4/1998/8);

Note by the secretariat on information received from indigenous organizations (E/CN.4/Sub.2/AC.4/1998/9);

Information received from non-governmental organizations on item 5 (E/CN.4/Sub.2/AC.4/1998/CRP.1);

Information received from non-governmental organizations on item 11 (E/CN.4/Sub.2/AC.4/1998/CRP.2);

Progress report on the working paper on indigenous people and their relationship to land (E/CN.4/Sub.2/AC.4/1998/CRP.3).

The following background documents were made available to the Working Group:

Report of the Working Group on Indigenous Populations on its fifteenth session (E/CN.4/Sub.2/1997/14);

Report of the Technical Meeting on the Protection of the Heritage of Indigenous People (E/CN.4/Sub.2/1997/15);

Preliminary working paper on indigenous people and their relationship to land (E/CN.4/Sub.2/1997/17 and Corr.1);

Report of the United Nations High Commissioner for Human Rights on activities undertaken for the International Decade of the World's Indigenous People (E/CN.4/1998/107);

Report of the Secretary-General on implementation of the programme of activities for the Decade (A/52/509);

Report of the working group established in accordance with Commission on Human Rights resolution 1995/32 (E/CN.4/1998/106 and Corr.1);

Report of the second workshop on a permanent forum for indigenous people within the United Nations system (E/CN.4/1998/11 and Add.1-3);

Commission on Human Rights resolutions 1995/32, 1998/13, 1998/14, 1998/20 and decision 1998/103;

Sub-Commission on Prevention of Discrimination and Protection of Minorities resolution 1994/45, annex;

General Assembly resolution 50/157;

Working paper on the future role of the Working Group (E/CN.4/Sub.2/AC.4/1994/10);

Working paper on a permanent forum for indigenous people (E/CN.4/Sub.2/AC.4/1995/7/Add.2).

C. Opening of the session

13. The Deputy High Commissioner for Human Rights, Mr. Enrique ter Horst, opened the sixteenth session of the Working Group. He informed the Working Group about the progress made on indigenous issues within the United Nations human rights programme since the last session and about the decision of the Commission on Human Rights to endorse the Sub-Commission's recommendation that the High Commissioner organize a seminar on the draft principles and guidelines for the protection of the heritage of indigenous people prepared by Ms. Daes. The seminar would be held immediately after the fourth session of the Commission's working group on the draft declaration on the rights of indigenous people.

14. In her opening statement the Chairperson-Rapporteur, Ms. Erica-Irene A. Daes, welcomed all participants to the sixteenth session

of the Working Group on Indigenous Populations. She offered a special welcome to the 48 indigenous representatives who had been supported by the United Nations Voluntary Fund for Indigenous Populations as well as the 5 indigenous Fellows who were participating in the United Nations Indigenous Fellowship Programme within the Office of the High Commissioner for Human Rights.

15. The Chairperson-Rapporteur said that the Working Group had been the single most influential United Nations forum in the field of indigenous rights and issues: every significant change and achievement affecting indigenous peoples owed much to the constructive and peaceful work undertaken by its participants. Furthermore, the Working Group remained a catalyst for change and a forceful drive for development in indigenous affairs.

16. The Working Group had become one of the largest international human rights gatherings because it had established an open and flexible practice through which indigenous peoples and Governments could carry out a constructive dialogue on matters related to the rights of indigenous peoples.

17. In presenting the provisional agenda (E/CN.4/Sub.2/AC.4/1998/1) the Chairperson-Rapporteur said that the Commission on Human Rights, in its resolution 1998/13, urged the Working Group to continue its review of developments and the diverse situations and aspirations of the world's indigenous people and welcomed its proposal to highlight education and language at its sixteenth session. The Working Group had decided to focus its attention on this principal theme because education was an important element in every society.

18. The Chairperson-Rapporteur expressed her gratitude to the Director-General of the United Nations Educational, Scientific and Cultural Organization, Mr. Federico Mayor, for designating the Assistant Director-General for Culture, Mr. Hernán Crespo Toral, to address the Working Group on his behalf. She also expressed, on behalf of the Working Group and the indigenous participants, deep appreciation and sincere gratitude to the Director of Public Information at the United Nations Office at Geneva, Ms. Thérèse Gastaut, for her invaluable support for the cause of indigenous peoples.

19. The Chairperson-Rapporteur said that the Working Group would continue to review the area of standard-setting. In this regard, she said that it was important to examine whether principles should be elaborated in relation to private sector energy and mining concerns. She also informed the Working Group about the progress made at the third session of the open-ended inter-sessional working group of the Commission on Human Rights on the draft declaration on the rights of indigenous people. The Working Group had adopted at first reading two articles of the draft declaration without any changes, a small but constructive first step which she hoped would serve as an encouragement to all parties concerned to accelerate the further elaboration of the draft declaration.

20. The Chairperson-Rapporteur concluded her opening statement by recalling that 1998 was the fiftieth anniversary of the adoption of the Universal Declaration of Human Rights. She stressed that although the Universal

Declaration placed an obligation on States to provide conditions in which all citizens could enjoy their human rights and fundamental freedoms and live in dignity and justice, there were still no adequate standards for the promotion and protection of the rights of indigenous peoples at the global level.

D. Adoption of the agenda

21. The Working Group held nine public meetings during its sixteenth session, of which two were extended.

22. At its 1st meeting, the Working Group considered the provisional agenda (E/CN.4/Sub.2/AC.4/1998/1). Mr. Alfonso Martínez proposed the inclusion of a new sub-item (a) under agenda item 12. The provisional agenda was adopted as amended.

E. Adoption of the report

23. The report of the Working Group on Indigenous Populations on its sixteenth session was adopted on 10 August 1998.

II. REVIEW OF DEVELOPMENTS PERTAINING TO THE PROMOTION AND PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF INDIGENOUS PEOPLE: GENERAL STATEMENTS

24. Under item 4, the observer for the World Intellectual Property Organization (WIPO) said that it had recently embarked upon a programme of activities relating to the identification and exploration of new approaches to the use of the intellectual property system by the world's indigenous peoples, local communities and other holders, custodians and creators of traditional knowledge, innovations and culture. The programme was being carried out primarily by the new Global Intellectual Property Issues Division, which had as part of its duties the exploration and investigation of the needs and expectations of potential new beneficiaries of intellectual property. Indigenous peoples, local communities and holders and creators of traditional knowledge had been identified by WIPO as the first group of potential new beneficiaries. Immediately prior to the sixteenth session of the Working Group WIPO had organized the first Roundtable on Intellectual Property and Indigenous Peoples, at which Ms. Daes had made the opening address. WIPO hoped that the Roundtable would become an annual event. Other activities under the Programme and Budget for the 1998-1999 biennium included a series of fact-finding missions to parts of the world with significant indigenous populations or significant bodies of traditional knowledge; pilot projects related to the documentation of traditional knowledge formation; and exploration of the ways in which information technology could serve as a tool for the protection and conservation of traditional knowledge.

25. The Secretariat of the United Nations Convention on Biological Diversity (CBD) characterized the Convention as one of the most important legal instruments for the advancement of indigenous peoples' rights over the natural wealth of their territories and over the associated knowledge of their communities. He explained that the Convention was a framework agreement, meaning that despite being legally binding, it had few mechanisms for implementation and none for enforcement. Governments were expected to meet

their obligations through national programmes and legislation, but no international body could force them to do so. He reported about an open-ended ad hoc inter-sessional working group of the Conference of Parties (COP) on traditional knowledge and biological diversity, held in Madrid in November 1997, which made recommendations to COP pertaining to (i) a programme of work related to the implementation of article 8 (j) of CBD and (ii) an institutional structure that would oversee that work. By decision 4/9 the Fourth Conference of Parties (COP4), held in Bratislava in May 1998, established the working group to address the implementation of article 8 (j) and related provisions of the Convention.

26. The observer for the International Labour Office gave a brief summary of the developments in the ILO concerning indigenous and tribal peoples. Ratifications of ILO (No. 169) Indigenous and Tribal Peoples Convention continued to be received, with Ecuador, Fiji and the Netherlands having ratified during the past year, bringing the total to 13 with a number of others under active consideration. The observer also informed the Working Group about its technical cooperation project financed by the Danish development agency DANIDA aimed at promoting ILO policy on indigenous and tribal peoples. The project began in 1996 and would continue until 2000, subject to renewal. It was conceived within the framework of the International Decade of the World's Indigenous People. The project was managed by two indigenous and tribal persons and emphasized Asia and southern Africa. The observer also reported on an ILO programme which began in 1993 to support self-reliance of indigenous and tribal communities through cooperatives and other self-help organizations. In collaboration with the Department of Native Studies of the University of Lethbridge of Alberta, Canada, ILO had published a manual entitled "Effective Negotiation by Indigenous Peoples" to provide guidance on strategies and tactics for indigenous and tribal peoples to negotiate development-related projects effectively. It also published a Guide to Convention No. 169 explaining the scope and content of the convention and its policy and legal implications.

27. The observer for the Office of the United Nations High Commissioner for Refugees (UNHCR) informed the Working Group about its work with indigenous peoples. UNHCR sought to address the particular concerns of indigenous peoples during the three typical phases of refugee displacement: (i) the root causes of the displacement; (ii) their specific needs during the period of asylum; and (iii) their special characteristics in the search for lasting solutions. UNHCR had prepared a discussion paper on indigenous refugees as part of its examination of ways of improving UNHCR's policy on indigenous refugees.

28. The observer for Canada informed the Working Group about "Gathering Strength - Canada's Aboriginal Action Plan" which was released in January 1998 as the Government's response to the report of the Royal Commission on Aboriginal Peoples. The Action Plan is framed around four key objectives: (i) to renew the partnerships between the Government and Aboriginal people by bringing about fundamental change based on the principles of mutual respect and recognition, responsibility and sharing; (ii) to strengthen Aboriginal governance so that communities have the tools to implement self-government; (iii) to design a new fiscal relationship that provides a stable flow of funds in support of transparent and accountable community development; and (iv) to

support strong, healthy Aboriginal communities, fuelled by economic development and supported by a solid infrastructure of institutions and services. The Government of Canada had also, through the Statement of Reconciliation, expressed regret for the many past policies and actions that had eroded the political, economic and social systems of Aboriginal peoples and nations. The Government also apologized to victims who suffered physical and sexual abuse in the residential school system. Accompanying the Statement of Reconciliation was the announcement of a commitment of 350 million Canadian dollars in new funding to develop a community-based healing strategy to assist Aboriginal people - Inuit, Mètis and First Nations, on an off reserve - who have been affected by the legacy of physical and sexual abuse in residential schools. Progress was also being made in the discussions pertaining to indigenous self-government. It was said that a number of final self-government agreements had recently been signed, and that the Government of Canada was currently engaged in 85 separate self-government negotiations across the country, involving over one half of Canada's First Nation and Inuit communities.

29. The observer for New Zealand said that the Treaty of Waitangi was fundamental to the relationship between the Government and the Maori, and the Government was committed to working with the Maori to find ways in which Maori concerns could be addressed. The Government had two key objectives for Maori: to address the socio-economic disparities which existed between Maori and non-Maori, and to reach fair and durable settlements to proven breaches of the Treaty of Waitangi. It was said that changes to the electoral system in New Zealand had led to significantly increased Maori political representation: 15 of the 120 members of Parliament were Maori. Maori made up 14 per cent of the population and a similar proportion of the seats in Parliament were now held by Maori people. The Cabinet contained three Maori ministers, including the Deputy Prime Minister and Treasurer, the Associate Treasurer and the Minister of Maori Affairs. The Working Group was also informed about the signing of the second major Deed of Settlement between the Crown and the Ngai Tahu tribe. The settlement comprised land and cash, as well as a range of mechanisms for the recognition of Maori spiritual, cultural and linguistic associations to land, fisheries and traditional food, and for joint management of lands with high conservation values.

30. The observer for Guatemala stated that the State must give the population equal opportunities and referred to the signing of the Indigenous Agreement, which was developed within the framework of the Peace Accord. It recognized the identity of the indigenous peoples in Guatemala as part of the multi-ethnic, pluricultural and multilingual nature of the society. Furthermore, it recognized the need to make official and promote indigenous languages, promote cultural identity and combat discrimination. The observer said that Guatemala encouraged participation as a means of guaranteeing and respecting fundamental indigenous rights through bodies established in 1997: the Commission on Languages, the Commission on Sacred Sites and the Joint Committee on Education Reform. Numerous activities and projects were being carried out to strengthen bilingual intercultural education in most of the languages spoken in the country.

31. The observer for Brazil stated that the Government was committed to promoting and protecting the rights of indigenous peoples. It recognized that

land and the environment were the basic conditions for the physical and cultural survival of indigenous peoples as an ethnically differentiated group within the national society. The Brazilian Constitution granted the indigenous peoples "original rights" to lands they traditionally occupied. He informed the Working Group about the ongoing process of demarcation of indigenous lands: 54 per cent of the total of the land recognized as traditionally occupied by indigenous peoples, which represented 11 per cent of the Brazilian territory, or, the equivalent of France and England together. Furthermore, the Government had carried out a $1.7 million operation from November 1997 to January 1998 through which 800 non-indigenous goldminers had been expelled from the Yanomami territory.

32. The observer for Venezuela informed the Working Group about his Government's adoption in 1998 of a plan of immediate action pertaining to indigenous peoples, including a census of property and indigenous health and educational programmes.

33. The observer for Myanmar said that his country was a Union that comprised 135 national races and that all of them were indigenous in the truest sense of the word: there were no distinct early comers or late colonizers. Accordingly, problems of indigenous populations as such did not exist in Myanmar. The Government was committed to the promotion and protection of the rights of the national races and would continue to do its utmost for all indigenous national races in Myanmar, so that they were able to take part fully in the political, economic and social life of the Union free from any form of discrimination.

34. The observer for Australia said that the Government had continued to give effect to its policy priority of addressing indigenous disadvantage in key socio-economic areas. The Government's commitment to improved health for indigenous peoples was indicated by the 40 per cent growth in funds allocated to this area over three years. The Government also placed strong emphasis on the economic development of indigenous peoples. In the last budget, the Government had injected capital into the Aboriginal and Torres Strait Islander Commercial Development Corporation to assist indigenous peoples to become involved in major business ventures. Furthermore, the Government had initiated a number of projects aimed at increasing the literacy and numeracy skills of indigenous students, particularly in the vital early years, and at providing improved equipment and facilities in remote areas. He informed the Working Group about the establishment of a service to trace separated family members throughout the country. The Government was very pleased that the Senate had passed the Native Title Amendment Act 1998, as the Act responded to the communities' call to the Government to restore certainty to native title and land management processes throughout Australia. The Act would give the required certainty to all Australians and in particular farmers, miners and indigenous peoples.

35. An indigenous representative from Australia informed the Working Group about recent developments in Australia in the field of indigenous rights. He said that the last 12 months had been very difficult for the Aboriginal and Torres Strait Islander peoples in Australia, because the country had lost its political way and direction. He referred to the progress of the One Nation Party in Australia, which had a racist and right-wing agenda in which the

indigenous peoples were among the main scapegoats. He expressed the opinion that the national Government had not taken any action in the face of this new right-wing agenda. Another indigenous representative from Australia informed the Working Group about the Human Rights and Equal Opportunity Commission, which was established as an instrument under the International Covenant on Civil and Political Rights and whose mandate was to promote respect for and observance of human rights and to enforce a federal anti-discrimination legislative regime. Until last year it was comprised of a president and six specialist commissioners, including an Aboriginal and Torres Strait Islander Social Justice Commissioner. In January 1998, the five-year term of the Commissioner ended and nobody was appointed to the post. Instead, the Race Discrimination Commissioner would act in the position. She expressed the view that the Government had crippled the capacity of the Human Rights and Equal Opportunity Commission to adequately represent indigenous peoples in Australia whose human rights had been violated.

36. Another indigenous representative from Australia focused on the new legislation which had been passed in Australia to give effect to the Government's "10-point plan". He said that the legislation was diminishing the rights which flowed from the Mabo decision of the Australian High Court recognizing that the continent was inhabited by aboriginal peoples when the British first arrived in 1788 and recognizing the land rights or "native title" of Aboriginal and Torres Strait Islanders peoples, and from the Wik decision, in which the High Court found that pastoral leases did not necessarily give exclusive possession to the pastoralists, and that native title rights could coexist with a pastoral lease.

37. A representative from the Norfolk Islands said that the Australian Government, earlier this year, had announced that it was going to change the electoral legislation so that Australian citizens could vote and stand as candidates for the Norfolk Islands legislative body within one month of arriving on the Norfolk Islands. He said that this was an unacceptable interference in self-government.

38. An Innu representative from Canada informed the Working Group about a 4.5 billion Canadian dollar hydroelectric power project affecting indigenous peoples in Quebec and Newfoundland which was being carried out without the consent of the Innu people. He said that this project posed a real threat to the Innu's cultural integrity because it would damage the Innu land and environment. Further, there was an urgent need for a settlement of indigenous land rights, and the Canadian Government was obliged to pursue justice and to protect the rights of the Innu indigenous people.

39. An Ainu representative from Japan informed the Working Group that the indigenous Ainu people were currently trying to reclaim their ancestral lands through the national legal system.

40. An indigenous representative from Mexico described the growing indigenous poverty and displacements due to the ongoing conflict in Chiapas. He said that all attempts at negotiation between the National Liberation Army and the Federal Government had so far failed. He welcomed the recent

intervention of the High Commissioner for Human Rights in which she called for a reduced army presence in the area and a renewal of dialogue, negotiations and communication between the parties.

41. Two indigenous representatives from the Philippines spoke about the Indigenous Peoples Rights Act of 1997. It was said that the Act did not give the necessary recognition and protection of the rights of indigenous peoples, and that Philippine indigenous peoples therefore were not satisfied with the new law. The law had two main components: the recognition of indigenous land rights through the issuance of certificates of land title and the creation of the National Commission on Indigenous Peoples. It was said that it was difficult for indigenous peoples to obtain land titles due to the high costs and the difficult procedure. The appointment by the President of the members of the National Commission on Indigenous Peoples was criticized.

42. An indigenous representative from Chile said that although the physical and cultural existence of the Mapuche people had now been recognized by the National Indigenous Act, there had been no significant change in policies on the promotion and protection of the rights of indigenous peoples in Chile. Although there were no widespread human rights violations, the Mapuche were denied their fundamental freedoms. Twenty-one national and international corporations had occupied the Mapuche territory.

43. An indigenous representative from Argentina said that international corporations were currently invading the Mapuche land with the acquiescence of the Government of Argentina. The WPF Oil Company was said to carry out activities with grave detrimental effects on the health of the Mapuche people as well as on their traditional lands and environment. Large quantities of lead and mercury had poisoned the soil and groundwater.

44. An indigenous representative from Guatemala called on the United Nations to continue to monitor the peace process in Guatemala and not only to assess the human rights situation, but also to provide training and tools for the indigenous peoples so that they could gain a status equal to that of non-indigenous peoples.

45. Several indigenous representatives from Asia informed the Working Group about the signing of a peace accord, in December 1997, between the Government of Bangladesh and the Jana Samhati Samiti (JSS). After two decades of violence and massacres during which thousands of indigenous peoples lost their lives, the agreement provided a hope for peace and stability in the Chittagong Hill Tracts region (CHT). However, it was said that the Government of Bangladesh had not begun to implement the agreement. No steps had been taken to form the agreed Regional Council, the body to be responsible for the administration and coordination of the development of the CHT. Furthermore, not one single military camp had been dismantled although the agreement provided for gradual military withdrawal. Moreover, the 460,000 plains settlers who were transferred to the CHT by the population transfer programme continued to threaten the process of implementation of the peace agreement.

46. An indigenous representative from Asia stated that the Myanmar military regime had continued to deny the rights of the indigenous peoples and had engaged them in a civil conflict. Last year alone a large number of people

had been forcibly relocated in the Shan and Karen regions, the homelands of two of Myanmar's largest indigenous groups. About 700 of the Shan indigenous people were reported to have been killed during the last year.

47. An indigenous representative from Brazil said that individuals and leaders advocating for the rights of indigenous peoples have been arrested and even killed. He said that Brazil's policy was not reflecting the interests and needs of indigenous peoples. A representative of the Nubian people in the Sudan said that his people were subjected to forced assimilation and forced integration. An indigenous representative from the Moluccas focused on the problem of unemployment among the indigenous peoples. He also said that there was still no equal or adequate admission to proper education or to proper employment for the indigenous peoples on the Moluccas.

48. An indigenous representative from New Zealand brought to the attention of the Working Group the impact on the Maori of the Resource Management Act. She said that the Act continued its sophisticated colonization of the few remaining Maori natural resources.

III. INDIGENOUS PEOPLES - EDUCATION AND LANGUAGE

49. The Chairperson-Rapporteur introduced item 5. She stressed that indigenous education and language were matters of primary importance for indigenous peoples and referred to the difficulties of access that they often experience and the vulnerability of certain indigenous languages. She encouraged the exchange of views and experiences between indigenous peoples and expressed her appreciation to educational experts and teachers and to UNESCO in particular for their cooperation.

50. Mr. Hernán Crespo Toral, Assistant Director-General for Culture of UNESCO, acknowledged the brilliant work accomplished by the Working Group during the past 15 years, reiterated UNESCO's commitment to the promotion and protection of the rights and cultures of indigenous peoples, and particularly stressed the importance of appreciating cultural diversity. He referred to the Intergovernmental Conference on Cultural Policies for Development, held in Stockholm in April 1998, and, in particular, to the Forum on Cultural Rights, organized by the Government of Bolivia, and the seminar on cultural rights of indigenous peoples organized by the Saami Council, which had adopted a declaration calling upon UNESCO, in coordination with OHCHR, to organize an international conference on indigenous cultural rights in 1999, with a view to promoting cultural diversity in all countries. The final plan of action approved by the Conference further strengthened a trend that had emerged during the UNESCO Intergovernmental Conference on Policies on the Use of National Languages in Africa, held in Harare in March 1997. Mr. Crespo also described the initiatives undertaken by UNESCO in the field and announced that UNESCO was prepared to invite the Working Group to hold its next session at UNESCO headquarters in Paris, with the theme of Culture and Education.

51. The Chairperson-Rapporteur urged UNESCO to complete its manual on indigenous peoples designed for use at university level.

52. During the ensuing discussion, many indigenous representatives stressed the link between language, culture and land within the framework of the

principle of self-determination. Reference was made to articles 3, 12, 13, 14 and 15 of the draft United Nations declaration on the rights of indigenous peoples. It was often repeated that policies of linguistic and cultural assimilation represented clear threats to these principles. UNESCO and OHCHR were therefore urged to work in consultation with indigenous representatives on the draft universal declaration on linguistic rights. Reference was also made to the opportunities offered by both the Convention on Biological Diversity (particularly art. 8 (j)) and the initiatives of WIPO, which were also urged to work in cooperation with the Working Group, UNESCO and other relevant agencies on an integrated protection of indigenous peoples' linguistic, cultural, land and resource rights.

53. Some indigenous representatives from the Philippines focused their interventions on the right to education for adults and women in particular. They denounced the lack of finances being used as an excuse not to allocate budgets for education for indigenous peoples and regretted that Governments were increasingly supporting the privatization of education. In countries which were heavily indebted to the World Bank and private banks, this move resulted in education being influenced by these entities and in undermining the social sciences by emphasizing technical education to serve the purposes of transnational corporations. The view was expressed that privatization policies should be further studied with regard to their impact on indigenous peoples' rights; that the World Bank should review its policies so as not to interfere with educational processes; and that Governments should fully commit themselves to the implementation of indigenous peoples' rights in the field of education.

54. Some indigenous representatives from India reiterated the link between education and the self-image of a people and felt that the extinction of local languages led to the cultural genocide of the indigenous communities; assimilation denied the specificity of local traditional educational systems and alienated indigenous children from their own society, hence the increasing rate of failures and drop-outs among tribal and indigenous children.

55. Indigenous representatives from Japan and Myanmar referred to the assimilation policy of the respective Governments, which broke the transmission of traditional culture from older to younger generations, thus engendering a dis-identification process which resulted in an identity crisis on the part of the local communities.

56. Indigenous representatives from the Russian Federation reported that the lack of financial support from the Government, coupled with the scarcity of technical resources, hampered the implementation of an integrated educational policy and made it difficult to preserve national identity. Moreover, the Government's ideas for reforming the pre-school system represented a further step towards cultural unification to the detriment of local cultures. Disappointment at this reform process had resulted in an increase in juvenile delinquency and the number of suicides.

57. Indigenous representatives from Hawaii said that their people had the worst educational results in the United States of America. Despite the successful Hawaiian Language Immersion Education programme, curriculum development and adequate instructional facilities were still needed as was

State support. In addition, representatives of the indigenous peoples of Alaska reported that United Nations resolutions on non-self-governing territories aiming at the educational advancement and the promotion and protection of the rights of indigenous peoples, participation and development had not yet been fully implemented. Other indigenous representatives from the same area denounced the collusion between the Government and Christian missions that had had adverse effects on indigenous communities in terms of loss of identity which, in turn, had engendered alcoholism, an increase in the suicide rate and other serious social problems. It was recommended that action be taken to avoid the disappearance of indigenous cultures around the world. In this respect, the prompt adoption of the draft United Nations declaration on the rights of indigenous peoples was a priority.

58. The observer for the United States of America conveyed his Government's commitment to maintain a unique legal relationship with federally recognized tribes as domestic dependent nations under its protection. As for concrete steps taken, reference was made to the education and language policies for American Indian and Alaska natives, based on the principle of active consultation. The 1990 Native American Languages Act recognized the languages of native Americans as an integral part of their identities and contained several provisions to promote and protect them. This trend was further enhanced by the 1992 Indian Native Language Act. At a regional level, the United States had worked, in cooperation with other Arctic States, on the establishment of an Arctic Council; at an international level, it has supported the continuation of the Working Group, perhaps with a revised mandate. The United States has urged that the Working Group be restructured so that the dialogue can be broadened to include issues such as the environment, health, education and economic development. Finally, while reiterating its commitment to work towards the adoption of the draft declaration, the United States insisted that further refinement was needed before it could be adopted.

59. Indigenous representatives from Canada stated that the theme of education was another important step by the Working Group to ensure the survival of indigenous languages on a global scale. While decrying assimilation and the ethnocentrism of the mainstream culture, resulting in high illiteracy and drop-out rates among indigenous peoples and their implications for cultural identity, they recalled and paid tribute to the many initiatives undertaken, especially by women, in this field and stressed the importance of educational programmes specifically designed for and by indigenous peoples. In this respect, an outstanding example was the creation of the Kahnawake Survival School by the Mohawk community, which was based on the control of finances, construction and curriculum and on the placement of native teachers in each classroom. The concept of "positive, constructive partnership" and the need to have adequate funding from the Government were repeatedly stated.

60. An indigenous representative from Canada surveyed existing international and domestic agreements and identified all the articles relevant to indigenous peoples in the field of education and language. On behalf of his organization, he recommended that the Working Group urge Governments - Canada in particular - to ratify ILO Convention No. 169 and approve and adopt the

draft United Nations declaration on the rights of indigenous peoples and, for those of the Americas, the OAS Declaration on the Rights of Indigenous Peoples.

61. The observer for Canada referred to recent measures taken to promote and protect the rights of indigenous communities in the field of education, namely, "Gathering Strength - Canada's Aboriginal Action Plan" which recognized the important role of education in shaping a positive future for Aboriginal groups, with a special focus on youth, and the Mi'kmaq Education Act, which became law on 18 June 1998 and which transferred federal legislative and administrative jurisdiction for education to some indigenous peoples, thus enabling them to develop education systems and institutions; some funding measures were also referred to. The following initiatives were undertaken with respect to the protection of health in consultation with the Aboriginal peoples of Canada: the Aboriginal Head Start Programme and the Indian and Inuit Health Careers Programme. Aboriginal youths benefited from several specific programmes under the Youth Employment Strategy (YES).

62. Indigenous representatives from New Zealand reported on developments in Maori education, including management of schools. Participants were briefed on the many initiatives undertaken, such as the development of Te Kohanga Reo, or early childhood language nest, for the elders to teach children local languages. However, funding for these programmes was restricted by government administrative procedures; governmental commissions had invariably failed in their attempts to alleviate the disparities between Maori and non-Maori and, as a consequence, the gap in terms of employment, education, health and economic status had worsened.

63. The observer for New Zealand described policy developments in the area of Maori education and language. Since the 1970s a series of initiatives had been launched in the New Zealand education system to encourage and revitalize Maori language. Programmes whereby Maori children are educated through the medium of Maori language were the focal point of these developments. Te Kohanga Reo had provided a strong foundation for the revitalization efforts. A community-based organization called Te Atarangi was established in 1980 to teach Maori language skills to Maori adults of all ages. Recently, in recognition of its commitment under the Treaty of Waitangi to take all reasonable steps to actively enable the survival of Maori as a living language, the Government of New Zealand had adopted a number of key policy objectives and was also developing an intersectoral Maori language plan.

64. Some indigenous representatives from Australia denounced the racist policy of the One Nation Party, with particular reference to the field of education. The distinction was made between education for Aborigines and Aboriginal education, with a view to highlighting the role that Aborigines should have in both designing and implementing educational policies. Other indigenous representatives from Australia focused their concern at the lower levels of education, saying that secondary school needed special attention. The relationship between levels of education, income and health of people in rural as well as urban areas was referred to. It was suggested that regional schools be established to service remoter areas.

65. The observer for Australia recognized that Australia's indigenous peoples were the most educationally disadvantaged in the whole community and appreciated the concerns expressed by indigenous representatives. He announced that a national policy for the education of indigenous Australians known as the National Aboriginal and Torres Strait Islander Education Policy (AEP), had been endorsed. It addressed all sectors and levels of education and training, and sought to establish accountability at the highest level. A number of specific programmes were presented to the Working Group.

66. Many indigenous representatives from Latin America reiterated that education was inextricably entwined with self-determination and identity; that it involved learning and development in general, including socialization. They decried the imposition of an alien culture which they did not understand and whose values they did not share on indigenous children, and insisted on the need for a truly indigenous education for all, not only children, arising from indigenous peoples themselves and capable of expressing their own cosmogony. The need for participation was further reiterated, not only at a consultative but also at a decision-making level. The importance of the prompt adoption of the draft United Nations declaration on the rights of indigenous peoples was further emphasized.

67. An indigenous representative from Brazil deplored both the reduction in the number of indigenous peoples and their loss of identity due to past integration and evangelization projects, for which no compensation was ever envisaged. He further reiterated the need for indigenous management of educational policies and expressed his gratitude for the United Nations Fellowship Programme from which he himself had benefited. In that regard, the Chairperson-Rapporteur reminded participants that the programme was possible thanks to contributions from Governments.

68. The observer for Chile conveyed the commitment of the Government of Chile to an integrated educational system which promoted and protected indigenous culture and languages, thus improving their living conditions; agreed on the importance of working in close cooperation with indigenous representatives; briefed the participants on some initiatives undertaken in this field.

69. The observer for Costa Rica listed all the international instruments relating to the promotion and protection of indigenous peoples' rights that Costa Rica had ratified and reported that, at the national level, further measures had been taken, in cooperation with local communities, to ensure the implementation of these rights in the field of education. Specific reference was made to bilingual education, an integrated curriculum, a fellowship system and the National Programme on Indigenous Education.

70. Some indigenous representatives from Africa denounced the fragmentation of their nations and the subsequent marginalization of their cultures and languages and agreed that there was a link between education and development. In particular, they focused on the importance of implementing indigenous peoples' rights through the enhancement and promotion of traditional and cultural integration, with a view to improving the quality of their lives. Special reference was made to children. An appeal was made by the Pygmies for support for the establishment of schools in Central Africa. Indigenous

representatives from northern Africa reported that the recognition of cultural diversity required reform of the educational system; in particular, some local languages (Tamazigh, Tifinagh) should be recognized at a national level. A Working Group of Indigenous Minorities in Southern Africa (WIMSA) was created to address the needs of indigenous populations in Angola, Botswana, Namibia, South Africa, Zambia and Zimbabwe, where governmental action combined with evangelization policies of the past had put the survival of local cultures at risk.

71. An indigenous representative from Africa stated that indigenous peoples were the most vulnerable peoples in the United Nations structure. They were marginalized, and indigenous peoples from Africa in particular faced difficulties in gaining a voice in international forums.

72. Indigenous representatives from the Nordic countries reported that the imposition of a mainstream education system had alienated indigenous peoples from their own culture and language. This had resulted in problems with identity which, in turn, had engendered other social matters of concern. Despite developments in the field of education, possibilities in national universities were still highly limited and often based on alien needs and values. The lack of funding, coupled with the inadequacy of the measures implemented, did not seem to secure the future of local communities. The International Decade of the World's Indigenous Peoples should be seen as an opportunity to raise awareness in the field of education and ensure self-determination and self-competency at a local level, with a particular emphasis on the role of women. The proposal by the High Commissioner for Human Rights, based on document E/CN.4/1998/107, to organize a workshop for research and higher education institutions focusing on indigenous issues was particularly welcomed as were the United Nations Fellowship Programme and the International Training Centre of Indigenous Peoples.

73. The observer for Finland stressed the importance for everyone of learning his or her own language and of providing education in that language, and briefed the participants on the main developments achieved in his country by the Saami communities. He said that the majority of the Finnish Saami had mastered their own language; that the Finnish Constitution contained provisions which protected and promoted the right to use the Saami language before authorities and guaranteed the cultural autonomy of the Saami as an indigenous people; and that the Saami Parliament had a Saami Language Office which provided translations and interpreters between the Saami and the Finnish authorities. He expressed the wish that all efforts be undertaken to adopt the draft United Nations declaration on the rights of indigenous peoples, which Finland strongly supported, and advocated the inclusion of the right to use one's own language before the authorities in the declaration.

74. The observer for Norway announced that, for the first time in history, a separate integrated Saami curriculum had been designed, with a view to concretely safeguarding the Saami culture. Furthermore, to ensure that Saami perspectives were adequately considered, the Council for Saami Education - the advisory body for the Ministry of Education, which would become a part of the Saami Parliament within a short time - was requested to play a central role in the administration and design of the curriculum.

75. Representatives of UNESCO-ETXEA (País Vasco) presented a project on languages deriving from UNESCO's decision in 1996 to draft a periodic report on the languages of the world. The project, which was approved at the UNESCO General Conference in 1997 and which is funded by the regional government of the Basque region of Spain, fell within the framework of UNESCO's program Linguapax. The report, which would be launched in 2001, had been designed specifically to address the needs of indigenous peoples in the field of languages. UNESCO-ETXEA requested that the Working Group support and cooperate in this initiative.

IV. INDIGENOUS PEOPLES AND HEALTH: FOLLOW-UP AND RECENT DEVELOPMENTS

76. The Chairperson-Rapporteur introduced item 6.

77. Mr. Edward G. Webster, WHO's focal point for indigenous health, speaking on behalf of Dr. Michel Jancloes, Director of the Division of Intensified Cooperation with Countries and Peoples in Greatest Needs (ICO) of the World Health Organization, focused his intervention on the link between WHO, indigenous peoples and the International Decade. He recalled resolution WHA51.24 adopted by the World Health Assembly in May 1998, which urged WHO member States to develop and implement national plans of action or programmes on indigenous peoples' health and requested the Director-General of WHO to promote the inclusion of indigenous health in the work programme at the country, regional and global levels. Mr. Webster described WHO's activities in areas such as quality of life assessment, traditional medicine, substance abuse and the health of indigenous peoples of the Americas. A document whose author was an indigenous health professional would be published shortly by WHO on the health of indigenous peoples.

WHO Forum on Indigenous Health

78. Mr. Webster presented a report on the WHO Forum on Indigenous Health held on 30 July 1998 within the framework of the sixteenth session of the Working Group. The objectives of the Forum were (a) to reach a better understanding of the health needs of indigenous peoples; (b) to explain WHO's activities in that field; (c) to better understand traditional medicine and health institutions and public policy thereon. At the Forum members of the WHO Committee on Indigenous Health shared their experiences and described initiatives in indigenous health taken by indigenous peoples in all areas of the world and their impact on public policy. Common problems encountered included the seriousness of the health problems to be dealt with, notably alcohol and drug abuse, heart disease, malnutrition and high rates of morbidity and mortality; lack of response from the national bureaucracy; and, above all, lack of funding. Reform was slow, but a number of projects were making progress. Participants at the Forum raised such issues of concern as the protection of property rights of traditional healers, exploitation by outsiders of traditional health practices, the difficulties of transmitting traditional knowledge to the young people and the antagonism encountered from the health establishment. One participant described the workshops held in her area by traditional healers for doctors which had become so successful that attendance had to be limited.

79. The Chairman of the Forum, Dr. Laifungbam Roy, co-Chair of WHO's Committee on Indigenous Health (COIH), had summed up the key issues as follows:

(a) Accountability of services for and practitioners working among indigenous peoples;

(b) Communication and sharing of experiences and expertise among peoples and health systems, organizations and nations;

(c) Participation in decision-making;

(d) Addressing public policy and continuity of programmes;

(e) Regulation of traditional health systems to avoid abuse and exploitation;

(f) Health education for professionals as well as peoples that encompassed both traditional and conventional health systems.

80. Dr. Sandra Land of the Pan American Health Association described the activities and initiatives taken by that organization and Dr. Gerard Bodeker of the University of Oxford Institute of Health Sciences, Global Initiative for Traditional Systems of Health, gave a presentation on traditional health systems and public policy. He described the initiatives currently being undertaken at Oxford by indigenous forums and NGOs, the goals of which included education in the policy area, viable policy reform concerning traditional medicine, identification of priority research areas and exploration of the potential for a global initiative on traditional medicine, and emphasized the need for a holistic approach.

81. In his closing remarks to the Forum, Dr. Jancloes said that indigenous peoples and their perspective on health should penetrate the policy-making process. The expertise and experiences of indigenous peoples should be built upon and their role in policy-making enhanced. Although new communication technology was often held in suspicion, it could be used in a positive way to facilitate the exchange of ideas and views and to help develop political energy to make the necessary changes in health systems, programmes and policies so that they benefited indigenous peoples.

82. The Committee on Indigenous Health of the Indigenous Peoples' preparatory meeting for the fifteenth session of the Working Group, upon completion of its first year of activities, put forward some suggestions. In particular, it recommended that the Working Group re-examine the recommendations of the Committee as reflected in paragraph 79 of the report of the Working Group on its fifteenth session (E/CN.4/Sub.2/1997/14), with a view to ensuring the establishment of a comprehensive programme of action on indigenous health in consultation with representatives of indigenous peoples; that the United Nations agencies dealing with health-related issues share information with the Committee and with indigenous organizations in general; that the Working Group take action to establish and maintain an appropriate interim institutional status for the Committee to ensure its participation in the formulation of policies and programmes within United Nations agencies;

requested financial assistance from the Voluntary Fund for Indigenous Populations to ensure the fulfilment of its mandate; and suggested that health issues remain a permanent item on the agenda of the Working Group.

83. An indigenous representative from the Netherlands presented the outcome of the Seminar on Indigenous Women, Health Care and Traditional Medicine, organized in Amsterdam in 1997 by the Indigenous Council in the Netherlands and the Commission of Indigenous Women as part of the International Decade and in accordance with the Beijing Declaration and Platform for Action. The seminar focused on the role of indigenous women in indigenous health and their knowledge of traditional medicine. Particular attention was accorded to measures to improve indigenous health and living conditions. Discussions led to the conclusion that, as a fundamental base for the protection and improvement of indigenous health and living conditions, it was paramount for indigenous communities to re-establish control over their own affairs, particularly in developing education and health programmes.

84. Some indigenous representatives from North America reported on health conditions in their communities, which resulted from social problems that indigenous people faced everywhere, such as unemployment, alcohol and drug abuse and family violence. A report entitled "Diabetes Among First Nations People", containing information from the 1991 Aboriginal Peoples Survey, was provided to the participants. In order to redress the adverse effects of colonization, it was suggested that employment programmes be designed and implemented, that counselling and improved community services be provided and that education be controlled by indigenous groups themselves.

85. Serious concern was expressed at the growing incidence of HIV/AIDS infection in indigenous communities, both on reservations and in urban areas; particular emphasis was put on prevention and treatment. The Working Group was urged to support the World AIDS Conference. Finally, the request was expressed that the United Nations, under the direction of UNAIDS and WHO, appoint a Special Rapporteur on HIV/AIDS whose mandate should also include indigenous health-related issues.

86. An indigenous representative from South America denounced health strategies implemented by some Governments aimed at limiting births within indigenous communities which have caused lethal infections in some of the women concerned. The importance of information-sharing and awareness-raising in the field of health was particularly stressed.

87. An indigenous representative from Australia sketched the indigenous health conditions of Aborigines in Australia and their most common infections and diseases, which included rheumatic fever, pneumonia, skin diseases, chronic ear infections, diabetes and renal diseases. It was reported that the incidence of eye disease among Aborigines continued to occur at rates that were greater than for the non-Aboriginal population. This situation resulted from Aborigines' living conditions which were characterized by poor housing, lack of hygiene and squalor. While lamenting the lack of commitment by the Australian Government to these issues, Aborigines were encouraged to learn that the Australian Federal Health Minister had affirmed his support for Aboriginal community control of health and his commitment to continue to work in close cooperation with indigenous organizations.

88. Another indigenous representative from Oceania recognized that, despite difficulties, some progress had been made in indigenous health conditions and that traditional cultural, social and spiritual needs were addressed in close cooperation with local groups.

89. An indigenous representative from Africa highlighted the link between health and marginalization, in particular: poor living conditions, great distances travelled on foot and declining access to and control of water resources exposed indigenous communities to HIV/AIDS and other serious diseases; irresponsible tourism was one of the main causes of the spread of HIV/AIDS; women were not informed about birth-related programmes; health-care support systems were too few and underequipped to deal with indigenous health conditions.

V. STANDARD-SETTING ACTIVITIES: EVOLUTION OF STANDARDS CONCERNING THE RIGHTS OF INDIGENOUS PEOPLE

Possible future standard-setting activities, including principles and guidelines for private sector energy and mining concerns

90. In the discussion under item 7, the observer for the Philippines informed the Working Group about the adoption of the Indigenous Peoples Rights Act (Republic Act No. 8371), which came into force on 29 October 1997, whose key provisions concerned, inter alia, land and resource rights and the right to self-governance. Under the Act, the State shall protect the rights of indigenous peoples and communities to their ancestral domains to ensure their economic, social and cultural well-being; recognize the applicability of customary laws governing property rights; accord indigenous peoples and communities priority rights in the harvesting, extraction, development or exploitation of any natural resources within their ancestral domains; and recognize the inherent right of indigenous peoples and communities to self-governance and self-determination and respect the integrity of their values, practices and institutions. The rights to be protected included the right of indigenous peoples to use their own commonly accepted justice system, conflict resolution institutions and other customary laws and practices, and the right to determine and decide development priorities.

91. The European Parliament Rapporteur on a European Code of Conduct for European Enterprises said the European Union must take greater responsibility for the activities of its companies in other countries because there were more transnational corporations with headquarters in Europe than in North America or Japan, and due to the fact that European public opinion would not tolerate double standards where companies flouted labour or environmental rules which were illegal in the European Union itself. The development of a model European code of conduct could be one way of approaching the matter. Such a code could be based on a set of accepted international standards, including ILO Convention No. 169, to which companies could voluntarily adhere.

92. An indigenous person informed the Working Group about the establishment in February 1998 of the World Commission on Dams, an independent international commission set up (a) to review the development effectiveness of large dams; (b) to assess options for water resources, energy and river basin development; and (c) to develop internationally accepted criteria and guidelines for the

planning, construction, operation, monitoring and decommissioning of large dams. During the next two years the Commission would undertake studies, hold public hearings and consultations, and set up task forces, panels and meetings to produce an interim report in June 1999 and a final report in June 2000.

93. An indigenous representative spoke about a workshop on tourism and indigenous peoples which was held during the sixteenth session of the Working Group. The workshop had adopted the following recommendations: (a) the theme "tourism and indigenous peoples" should be included in the agenda of the seventeenth session of the Working Group; (b) the United Nations should organize an international conference on tourism and indigenous peoples; (c) the World Tourism Organization should include the issue of indigenous peoples in their code of ethics of tourism; (d) the issue of indigenous peoples and tourism should be addressed by the relevant mechanisms of the European Union. Furthermore, the Workshop requested the Sub-Commission to adopt a resolution on "Tourism and human rights". In this regard it was said, inter alia, that it should be taken into account that indigenous peoples were particularly vulnerable to resource alienation associated with tourism development.

94. An indigenous representative from Latin America said that natural and cultural resources were essential to all indigenous peoples and that indigenous peoples' right to control their own natural resources was an important part of their right of self-determination. Another indigenous representative from Latin America described the serious problems faced by some indigenous peoples in his country due to a gas pipeline which crossed their rivers and sugar cane fields.

95. An indigenous representative from Australia stated that indigenous peoples and private enterprises could achieve a partnership. In his country there was a significant history of agreements between mining companies and indigenous peoples governing exploration and mining on indigenous peoples' lands. However, indigenous peoples could not negotiate effectively if they had no rights. The growth in agreements in Australia was a direct result of the right to negotiate achieved by indigenous landholders under the 1993 Native Title Amendment Act.

96. An indigenous representative from Asia informed the Working Group about the displacement of several million indigenous peoples due to mining, power plants, dams and similar undertakings. He stressed that displacement should take place only with the full and informed consent of the peoples concerned and the affected peoples must be adequately compensated for lost land with land of similar quantity and quality.

97. An indigenous representative from the Philippines said that the current Mining Law in the country stated that mining companies shall enter into a dialogue and gain the consent of indigenous peoples before they proceeded. Those requirements were normally not implemented in good faith by companies. As an example, he mentioned a case involving the mining company Rio Tinto which had been ignoring the opposition of the indigenous Subanen Leaders Forum to its exploration project covering an area of 600,000 hectares of the Subanen ancestral territory.

98. An indigenous representative from Panama said that most of the development programmes in his country were planned and executed without the participation of indigenous peoples. The Government had recently signed a contract with a Canadian company to develop copper in an indigenous area without the consent or knowledge of the indigenous peoples living there. An indigenous representative from Canada said indigenous peoples expected to be involved as full partners in the development of any international standards with regard to energy and mining concerns.

99. Mr. Alfonso Martínez said that the debate under item 7 had shown that the Working Group needed to continue its work on developing new standards on these matters. It was extremely important that indigenous peoples participate in the development of such standards, in accordance with the Vienna Declaration and Programme of Action.

100. The Chairperson-Rapporteur also underlined the importance of developing standards in this field; such standards were essential for the survival of many indigenous peoples around the world. In her capacity as United Nations Special Rapporteur on indigenous land rights, she would take this into account.

VI. STUDY ON TREATIES, AGREEMENTS AND OTHER CONSTRUCTIVE ARRANGEMENTS BETWEEN STATES AND INDIGENOUS POPULATIONS

101. The Special Rapporteur on treaties, agreements and other constructive arrangements between States and indigenous populations, Mr. Miguel Alfonso Martínez, presented his final report to the Working Group*. He had been working on the study for nine years. The work had been extremely challenging and interesting, and it had changed his view on many important matters. The study had introduced new ideas and offered him the opportunity to explore new ways of thinking. It had also given him the opportunity to view new dimensions of issues concerning indigenous peoples. The Special Rapporteur apologized for the delay of his submission of the final report and for the fact that the report was available in English only. He thanked a number of individuals who had assisted him in his work, in particular his consultant, Dr. Isabelle Schulte-Tenckhoff. He also expressed his gratitude to the Office of the High Commissioner for Human Rights for its valuable support to his work.

102. The Special Rapporteur invited all participants to comment on the report and his conclusions and recommendations. He welcomed all critical opinions to be expressed during the debate on the contents and would take into account all the comments before the report was finalized. He summarized the report's contents chapter by chapter, and his conclusions and recommendations. The Special Rapporteur underlined the problem pertaining to indigenous land rights, and said that this was the core issue to indigenous peoples regardless of where they lived. Very little or no progress could be made in this field without tackling, solving and redressing - in a way acceptable to the indigenous peoples concerned - the question of the uninterrupted dispossession

---

* The report was made available to the Working Group unedited and in English only.

of indigenous resources (land, in particular) vital to the lives and survival of indigenous peoples. The Special Rapporteur also stated that indigenous peoples had the right to self-determination, like all other peoples, and States had the duty to promote and protect this right.

103. The members of the Working Group congratulated the Special Rapporteur on his report. Mr. Guissé said that it might be necessary to have an addendum to the document because of the many unanswered questions. He recalled that the Special Rapporteur had said that there were no indigenous peoples in Africa and Asia. Mr. Guissé observed, however, that if one looked a little deeper, one realized that indigenous communities did, in fact, exist in Africa. He mentioned the Batwa people in Rwanda as an example.

104. The observer for Denmark, addressing the factual content of the report, referred in particular to chapter II B - entitled "Other constructive arrangements". She said that it was surprising if not alarming how few references to legal or any other texts the report contained, and that referring back to the third progress report did not solve this fundamental problem - with potentially far-reaching consequences for some parties. She referred, inter alia, to paragraphs 127-130 dealing with an assessment of the Greenland Home Rule Government, and said that contrary to the impression given by the Special Rapporteur, extensive legislative and executive powers, territorially as well as functionally defined, had been transferred to Home Rule, including education, cultural, economic and social affairs, health services, fisheries, labour market, trade, taxation, housing, physical planning and mineral resources administration. She also emphasized that the Danish Government was obliged to consult the Home Rule Government before entering into treaties that particularly affected Greenland's interests. She also mentioned that Greenland in a referendum in 1982 opted to withdraw from the then European Economic Council - now the European Union - while Denmark was still a member.

105. The observer for the United States of America called attention to an omission in the study which referred to the status of the State of Hawaii, which became the fiftieth state in 1959. The study neglected to take into account that the General Assembly, in resolution 1469 (XIV) of 12 December 1959, found that the people of Hawaii had effectively exercised their right to self-determination and freely chosen their political status. The action taken by the General Assembly should have been recognized in the final report.

106. In reply, Mr. Alfonso Martínez stated that even though he was aware of General Assembly resolution 1469 (XIV), he did not think that the case merited re-examination on the grounds of its particular situation after the passing of the so-called 1993 "Apology Bill" by the United States Congress. He recalled that the General Assembly had adopted a resolution relating to the case of Puerto Rico, in which the Assembly found that the people of Puerto Rico had effectively exercised their right to self-determination. Despite this resolution, the issue of Puerto Rico was resubmitted as a special problem of decolonization and was taken up as a special case. The Special Rapporteur said that he would elaborate further on this matter in his amended final report.

107. The observer for Bangladesh stated that the study on treaties had no direct relevance to her country. She added that the indigenous-exogenous dichotomy did not apply in characterizing the population of Bangladesh. The majority of the people of Bangladesh traced their ancestry back thousands of years. Bangladesh had, however, some ethnic groups of tribal origin living in the country's south-eastern hill districts who were distinct from the mainstream population. Endorsing the statement of Mr. Guissé that there was a "tremendous difference between indigenous populations and minorities", the observer underscored the need to have a clear definition of "indigenous people" in order to provide the necessary focus on rights of indigenous people.

108. An indigenous representative from Africa strongly endorsed Mr. Guissé's statement pertaining to the concept of indigenous peoples and opposed the view of Mr. Alfonso Martínez that there were no indigenous peoples in Africa and Asia. He said that the Working Group would be incomplete without the participation of indigenous peoples from Africa and Asia. He regarded the recommendations relating to Africa and Asia as flawed, and said that his organization rejected them totally.

109. Many indigenous representatives said that they had not had the opportunity to adequately study the report and prepare their statements as they had only recently received copies of the lengthy report which was only in English. They requested another opportunity in the future to analyse and comment on the report. The item should therefore be on the agenda of the Working Group at its seventeenth session. Many indigenous representatives from Latin America said that the lack of a Spanish version of the report had prevented them from making comments on the report and its recommendations and supported the idea of including the item on the next year's agenda.

110. Many indigenous representatives from North America expressed their gratitude to the Special Rapporteur for his excellent work. Many endorsed the view expressed in paragraph 270 of the report that where indigenous peoples had concluded treaties or other legal instruments with the European settlers and/or their successors in the colonization process, there were no sound legal arguments to sustain the position that the signatories to those treaties had lost their international juridical status as nations.

111. A representative from North America conveyed a message from 72 First Nations Chiefs and Councils accepting and endorsing the Special Rapporteur's final report. An indigenous representative from Chile expressed his thanks to the Special Rapporteur and said that his traditional authorities had great hopes that the results of the final report, in particular its recommendations, would be implemented. An indigenous representative from Hawaii strongly endorsed the report and its conclusions and recommendations. She said that Hawaii had rightfully been on the United Nations list of colonized territories, but in 1959 was removed from the list by unilateral action by the United States of America. Therefore, the indigenous peoples of Hawaii were never given the opportunity to decolonize their lands or to vote for autonomy or independence. She welcomed the acknowledgement of this historic fact by the Special Rapporteur.

112. An indigenous representative from Canada said that his people were specially concerned with the issue of extinguishment of native title as a precondition to treaty negotiations. He said that States sought their advantage through treaties but often neglected to respect their obligations to indigenous peoples contained in those same treaties, and that treaties therefore often served as instruments of dispossession. He welcomed the recommendations of the Special Rapporteur and, in particular, his recommendation for more effective national mechanisms for conflict resolution. However, where such conflict resolution mechanisms did not exist or had not proven effective due to the inherent conflict of interests of the parties, recourse to international sources of adjudication must be made available.

113. At the end of the debate, the Special Rapporteur expressed his gratitude for the comments made on the final report, in particular those which expressed criticisms. He stressed, however, that he had never advanced the idea, as stated by some participants, that there were no indigenous peoples in Africa or Asia. His work had in fact led him to conclude the opposite, namely that in the context of the work of the United Nations on indigenous issues all peoples in Africa and Asia, not only those who attended the Working Group, were indeed indigenous in the sense of that term and could claim that status, in particular in the light of the decolonization process.

VII. STUDY ON INDIGENOUS PEOPLES AND THEIR RELATIONSHIP TO LAND

114. In introducing item 9, Ms. Daes, in her capacity as the Special Rapporteur, informed the Working Group about the progress she had made in her work. She recalled that she had submitted a preliminary working paper (E/CN.4/Sub.2/1997/17 and Corr.1) to the forty-ninth session of the Sub-Commission and that the Sub-Commission, in decision 1997/114, requested her to transmit her preliminary working paper to indigenous organizations and Governments for their comments before preparing her final working paper. Although she had received very few comments, she had prepared a progress report for the fiftieth session of the Sub-Commission which was available at the meeting, but as a conference room paper only.

115. The Special Rapporteur invited the participants to comment on her progress report. However, she proposed that the Working Group defer the consideration of her study to its seventeenth session, in order to enable more indigenous organizations and Governments to submit their comments to the Special Rapporteur.

116. Mr. Alfonso Martínez endorsed the proposal to defer consideration. He emphasized the importance of receiving comments and suggestions from as many indigenous organizations and Governments as possible, even during the present session if, as he thought, there were participants that were ready to intervene in the debate on the land issue.

117. An indigenous representative from Canada thanked the Special Rapporteur for her work. She invited the Special Rapporteur to visit the Akaitche territory in Canada.

118. An indigenous representative from Chile expressed his thanks to the Special Rapporteur. He hoped that she would continue her work and cover all

aspects of the question related to indigenous land rights. The work of the Special Rapporteur was very important to the Mapuche people in Argentina and Chile. Furthermore, if the concept of indigenous relations to their ancestral land were strengthened, it would be an innovation in international law.

119. Several indigenous representatives referred to the problem of extinguishment of indigenous land rights, and recommended that the Special Rapporteur pay particular attention to this problem in her final working paper.

VIII. CONSIDERATION OF THE ESTABLISHMENT OF A PERMANENT FORUM FOR INDIGENOUS PEOPLES

120. Mr. Alfonso Martínez expressed his concern that five years after the World Conference of Human Rights, the possible mandate for a permanent forum remained unclear, especially its relationship to the Working Group on Indigenous Populations. He elaborated on three aspects of the definition of a permanent forum. As to its functions, a choice had to be made between an administrative, an advisory or a judicial - so to speak dispute settlement - body. A second set of questions related to its composition, that is to the alternatives of limited or open participation of non-governmental actors. Mr. Alfonso Martínez stressed the importance of defining the means that must be available for the forum, and in that connection he was strongly convinced that all its resources must come from the United Nations regular budget and not from voluntary contributions.

121. Ms. Daes, in her personal capacity, expressed strong support for the establishment of a permanent forum for indigenous peoples within the United Nations system. She stressed its importance for the survival of the world's indigenous peoples. She recalled the constructive work done by the two United Nations technical workshops held in Copenhagen and Santiago de Chile. Furthermore, she recalled with great satisfaction Commission resolution 1998/20, by which the Commission established an ad hoc working group on the establishment of a permanent forum.

122. The observer for Denmark, on behalf of Denmark, Estonia, Finland, Iceland, Norway, Sweden, the Greenland Home Rule Government, and the Saami Parliaments of Finland, Norway and Sweden, strongly supported the establishment of the permanent forum. In talking about the open-ended inter-sessional ad hoc working group on the establishment of a permanent forum, she encouraged all indigenous participants and States to participate actively in the exchange of ideas and aspirations with respect to the role, function, composition and placement of the permanent forum. It was of particular importance that indigenous peoples took any opportunity that might arise locally, regionally or internationally to discuss the modalities for the permanent forum amongst themselves to prepare for the meeting of the ad hoc working group, to be held in February 1999. I was also important to ensure the widest possible indigenous participation in the ad hoc working group. Therefore, applications for accreditation from indigenous organizations, in accordance with resolution 1998/20, should be processed flexibly and with no delay.

123. All indigenous representatives but one who spoke under the agenda item strongly supported the establishment of such a forum. They said that the permanent forum should be established at the highest possible level within the United Nations system. Many emphasized the importance of ensuring full participation of indigenous peoples in the permanent forum.

124. An indigenous representative from Canada expressed reservations with regard to the establishment of a permanent forum because no funds were set aside for issues concerning indigenous peoples. She said that funding should be ensured for the process pertaining to the permanent forum.

IX. INTERNATIONAL DECADE OF THE WORLD'S INDIGENOUS PEOPLE

125. The observer for Norway made a statement on behalf of the Nordic countries, the Greenland Home Rule Government and the Saami Parliaments, in which he proposed to hold a technical meeting immediately prior to the seventeenth session of the Working Group in order to undertake a review of and suggest possible changes to the programme of action of the Decade.

126. An indigenous participant from Asia stressed the importance of educating and informing the international community with respect to indigenous issues and proposed the publication of a handbook.

127. An indigenous participant referred to the report of the Workshop of Indigenous Journalists (E/CN.4/Sub.2/AC.4/1998/6). He proposed the creation of a communications network, including the participation of indigenous peoples, NGOs and international agencies. He likewise stressed the importance of new communications technology for the endeavours of indigenous journalists.

128. An indigenous participant from the Russian Federation stated that due to the difficult access to communication facilities, the peoples of the North were moving forward towards the realization of the objectives of the International Decade and appealed for the support of peoples in neighbouring countries to which they had historical links.

129. With respect to the mid-point review, an indigenous participant from Australia noted that there was little evidence of achievements and a lack of commitment to the objectives of the Decade. He stressed the urgent need for adequate funding on the national and international levels.

130. An indigenous participant from Asia noted that, within the framework of the International Decade, the situation of more than 100 very seriously threatened indigenous groups in the world called for a thorough revision of development policies, in order to counteract such phenomena as ecological destruction of livelihoods, demographic explosion and cultural as well as physical genocide. The International Decade should serve to articulate and develop alternative policy measures.

131. An indigenous participant from Canada noted how essential the Voluntary Fund on Indigenous Populations was for the participation of indigenous peoples in the United Nations system. The Voluntary Fund was achieving its purpose by ensuring a process that was beneficial to the communities which were

represented by the delegations participating in the Working Group's sessions. Several indigenous participants extended their thanks to the Governments that had contributed to the Voluntary Fund.

132. An indigenous participant from Canada informed the Working Group about the World Indigenous Nations (WIN) Games. He submitted a petition to declare the WIN Games as an official activity of the Decade. He stated that sports were human rights and that they made a valuable contribution to nation-building, healthy lifestyles and positive self-esteem. He informed the Working Group about the establishment of an International Advisory Council for the WIN Games to be held in 2003.

133. The Chairperson-Rapporteur appealed to Governments, organizations and individuals to make contributions to the two voluntary funds for indigenous peoples.

134. In relation to the activities within the framework of the International Decade, an indigenous participant from Japan commented on the shortcomings of the Government's language policy.

135. The observer for Japan made a statement about his Government's policy for the protection of the rights of the Ainu people and affirmed its commitment to their welfare. He mentioned that Japan was contributing financially within the framework of the International Decade and asked the Office of the High Commissioner for Human Rights to ensure appropriate use and transparency regarding the Funds.

136. The Chairperson-Rapporteur expressed her deep gratitude to the Government of Japan for its contributions of US$ 140,000 to the Voluntary Fund and with US$ 200,000 to the activities of the International Decade.

137. The observer for Estonia informed the Working Group about recent steps it had taken in the framework of that country's long-term policies relating to the promotion of Finno-Ugric and Uralic languages and cultures shared by some indigenous peoples and Estonians. The measures included contributions for study grants, visiting professors and research on Uralic studies in the areas of culture, education and information.

138. Mr. Alfonso Martínez, noting that the lack of documents made it difficult to monitor the use of funds, requested that documentation evaluating the activities of the first half of the International Decade be prepared. The Chairperson-Rapporteur replied that both Voluntary Funds were administered according to specific relevant rules and that the reports of the meetings were internal documents. She requested the High Commissioner to prepare documentation relating to ongoing funding and project activities, given that aside from the Secretary-General's report to the General Assembly there was no detailed official documentation on the issue.

X. OTHER MATTERS

139. Mr. Alfonso Martínez expressed his concern about practical questions regarding the Programme of Action of the International Decade. In this respect, he mentioned the heavy workload of the secretariat of the Working

Group. The creation of new tasks within the framework of the Decade was not met by an adequate number of staff to carry out the tasks. The number of Professional staff at the Office of the High Commissioner was inadequate in view of the amount of work. Teamwork was nearly impossible under present conditions.

140. An indigenous participant from Panama thanked the Governments and institutions that had contributed to the Voluntary Fund on Indigenous Populations. He nevertheless noted that the financial assistance to 48 indigenous delegates was insufficient and that other mechanisms were needed to ensure the necessary participation of indigenous peoples in the United Nations system.

141. An indigenous representative from Canada expressed his concern for the restructuring of the Office of the High Commissioner for Human Rights and the effect it had on the secretariat of the Working Group on Indigenous Populations. He expressed the view that the current situation needed to be changed and endorsed the comments of Mr. Alfonso Martínez on that subject. It was important to continue to study indigenous peoples' relationship to land as well as the work being done in meetings and seminars relating to various matters and welcomed in this context the roundtable on indigenous peoples and intellectual property organized by WIPO immediately prior to the session of the Working Group.

142. The Chairperson-Rapporteur expressed her deep appreciation and gratitude to the Office of the High Commissioner for an extremely well-organized celebration of the International Day of the World's Indigenous Peoples on 31 July 1998. She thanked the indigenous representatives for taking part in the celebration, in particular those who shared their cultural expressions with the rest of the participants. She paid special tribute to the five Indigenous Fellows in OHCHR, Ms. Saoudata Aboubacrine, Mr. Estebancio Castro Diaz, Ms. Tracy McHugh, Ms. Tracey Whare and Ms. Jennifer Williams, for making all the preparations for the celebration. She also expressed her gratitude to the Department of Public Information for its extremely valuable assistance in organizing the event. Finally, she expressed her gratitude to the Director-General of the United Nations Office at Geneva, Mr. Vladimir Petrovsky, and the High Commissioner for Human Rights, Ms. Mary Robinson, for their contributions to the celebration.

XI. CONCLUSIONS AND RECOMMENDATIONS

A. Review of developments

143. The Working Group reaffirmed its view that the agenda item on "Review of developments" was a fundamental, constructive and positive part of its mandate. It noted in particular that this agenda item offered a unique opportunity for the exchange of views and information by Governments, indigenous peoples and United Nations organizations and specialized agencies about the situation of indigenous peoples and communities. The open and comprehensive debate contributed to better understanding and fruitful action.

144. The Working Group expressed its appreciation to all participants and especially those who had travelled at great expense to participate in the work of the annual session of the Working Group. It welcomed the participation of observer Governments and the detailed information they had provided concerning recent developments in their respective countries.

145. The Working Group expressed its gratitude to UNESCO for its support and involvement in the debate on the principal theme and paid tribute to Mr. Hernán Crespo Toral, the Assistant Director-General of UNESCO, for his wide-ranging, informative and comprehensive statement and the proposals for future cooperation between his organization and the Working Group. It expressed its appreciation to WIPO for the roundtable on indigenous knowledge which it had organized on 23 and 24 July 1998 with the participation of a great number of indigenous people representing many countries of the world community. It also expressed its appreciation to WHO and the ILO for their continuing constructive contribution to the discussions on and their positive action in support of indigenous peoples' rights. It expressed its appreciation to other intergovernmental and United Nations organizations which had provided useful information.

146. The Working Group further expressed its appreciation to the indigenous, governmental and non-governmental organizers of the more than 50 informal briefings, workshops, exhibitions and other information activities that took place outside the plenary session. It considered those activities to be a useful complement to its own programme.

147. The Working Group considered the discussions on the principal theme "Indigenous peoples: education and language" as particularly helpful for its understanding of indigenous issues. It noted the continuing difficulties faced by indigenous peoples in the area of education and the threats to indigenous languages. It also noted the many initiatives by Governments to improve the access of indigenous peoples to all forms and levels of education and the achievements of indigenous communities in establishing their own schools and institutes of learning.

148. The Working Group welcomed the invitation by the Director-General of UNESCO to the Working Group to hold its seventeenth session at UNESCO headquarters in Paris. It decided not to take a final decision on the matter in view of the concerns expressed by a number of indigenous organizations. It recommended that indigenous delegations consult with their communities and inform the Working Group at its seventeenth session and the High Commissioner of their views as soon as possible in the light of the need to secure in Paris similar facilities to those available in Geneva.

149. The Working Group agreed to recommend to the Sub-Commission that it request the High Commissioner, in her capacity as Coordinator of the International Decade of the World's Indigenous People, to continue to seek ways to cooperate with UNESCO, in particular in respect of possible joint workshops, seminars, projects and programmes in the fields of education and culture of indigenous peoples.

150. The Working Group decided to highlight the themes of "Indigenous peoples and their relationship to land" and "Indigenous peoples and health" at its seventeenth session with the understanding that the participants would continue to have an opportunity to provide information of a general character.

B. Standard-setting activities

151. The Working Group reaffirmed its view that the agenda item on standard-setting also constituted a fundamental part of its mandate.

152. The Working Group noted the opinions expressed in relation to possible principles and guidelines for private-sector energy and mining concerns and agreed to continue to provide an opportunity under this agenda item for further consideration of this question. It decided to request Mr. Alfonso Martínez to submit to its eighteenth session a preliminary working paper on this issue in the light of the opinions expressed during the debate at its fifteenth and sixteenth sessions.

C. Study on treaties

153. The Working Group expressed its appreciation to the Special Rapporteur for his final report on the study on treaties, agreements and other constructive arrangements between States and indigenous populations which had been made available to participants in an unedited English version. It decided to consider the revised final report at its seventeenth session when it would be available in all the working languages of the United Nations.

154. The Working Group decided to recommend to the Sub-Commission that it request the Office of the High Commissioner for Human Rights to organize, in the first quarter of 2000, a seminar on treaties, agreements and other constructive arrangements to provide an opportunity for interested Governments and indigenous peoples as well as the Special Rapporteur to exchange views on the conclusions and recommendations of the study.

D. Study on land rights

155. The Working Group congratulated the Special Rapporteur for her working paper on indigenous peoples and their relationship to land. It agreed to defer consideration of both her working papers until its seventeenth session in the light of the small number of replies containing comments, information and data related to the working paper received from Governments and indigenous peoples.

156. The Working Group encouraged Governments and indigenous peoples to send their comments on the working paper as soon as possible.

E. Permanent forum

157. The Working Group expressed its appreciation for the comments and suggestions made by participants relating to the permanent forum for indigenous people within the United Nations system. It encouraged participants, in particular indigenous delegations, to provide their views and comments on the proposed permanent forum to the Office of the High Commissioner for Human Rights so that the information could be available for the ad hoc working group established by the Commission on Human Rights.

F. International Decade of the World's Indigenous People

158. The Working Group welcomed the comments and suggestions of participants relating to the International Decade and reaffirmed its willingness to assist the Coordinator of the Decade in the realization of the Programme of Activities of the Decade.

159. The Working Group expressed its gratitude for the contributions made by Governments and non-governmental organizations to the Voluntary Fund for the International Decade. It also called upon Governments that had not contributed to the Voluntary Fund to do so.

160. The Working Group agreed to recommend to the Sub-Commission that it propose to the Commission on Human Rights that a three-day technical meeting take place prior to the seventeenth session of the Working Group to undertake the mid-point review of the International Decade as recommended by the General Assembly in resolution 50/157.

161. The Working Group expressed its deep appreciation to the Government of Spain for hosting the Workshop of Indigenous Journalists in January 1998. It also encouraged the High Commissioner to consider organizing a follow-up workshop to put into practice the recommendations arising from the Madrid Workshop.

162. The Working Group recommended that the celebration of the International Day of the World's Indigenous People (9 August) be held on the first day of the Working Group at its seventeenth session in order to ensure greater participation of indigenous people.

G. Other matters

163. The Working Group welcomed the continuing progress made by the Committee on Indigenous Health as well as the cooperation being developed between the Committee and the World Health Organization.

164. The Working Group decided to consider the following items at its seventeenth session: "Review of developments - general statements"; "Principal theme - indigenous peoples and their relationship to land"; "Indigenous peoples and health - recent developments"; "Standard-setting activities, including possible principles and guidelines for private-sector energy and mining entities"; "Study on treaties, agreements and other constructive arrangements between States and indigenous populations"; "Study on indigenous peoples and their relationship to land"; "International Decade of the World's Indigenous People"; "Other matters".

165. The Working Group decided to organize its work during its seventeenth session in such a way as to avoid holding extended meetings so as to secure the widest possible participation in the discussions on all items. Particular attention should be given in this respect to a fair, equitable distribution of the time available during the session among all the participants who might wish to take the floor on every agenda item.